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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,257

03/12/2004

Stephen McIsaac

JJ-11 384-2US

5883

7590

05/19/2006

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EXAMINER

GIBSON, RANDY W

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/798,257	Applicant(s) MCISAAC ET AL.	
	Examiner Randy W. Gibson	Art Unit 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☒ Claim(s) 6-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kira (US # 6,317,656) in view of Wojcik (US # 3,636,750) and Hyer et al (US # 4,762,252). As noted in the previous office action, Kira teaches monitoring motor current as a way of recording mass flow rate of a belt conveyor that also accounts for "no-load" and "start-up load" conditions (See column 2, lines 53-63; column 6, line 34 to col. 7, line 7; and, col. 13, line 60 to col. 16, line 11.). Kira teaches the claimed invention except for using a calibration formula for the "tare" weight of the empty scale that is derived from an average of "no-load" reading plus "up to" two standard deviations. Wojcik teach that in order to calibrate the tare weight of an empty conveyor, one needs to take an average of the readings of an entire run of the conveyor because of variations in the belt (Abs.).

Heyer et al points out that conveyor scales are also subject to random noise, and as is well known from statistics, 95 percent of these reading should fall withing two standard deviations of the average readings (Col. 4, line 60 to col. 6, line 5). It would have been obvious to the ordinary practioner to tare the scale of Kira by averaging the no-load readings, as taught by Wojick, to cancel out natural variations in the tare readings of the conveyor run, and to factor in any "noise" reading that lie within two standard deviations from the mean, as suggested by Hyer, to account for random noise.

Conclusion

4. Claims 1-4 are allowable over the art of record since there is no evidence that Kira keeps a continual record of all no-load and start-up load time during the recording process and totalizes these figures along with the tonnage for the recording period. Claims 6-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In addition to the reason mentioned above, the examiner also notes that while Kira teaches that temperature changes affects the weight reading of belt conveyors, but since he compensates for this using an auto-calibration routine, this reference teaches away from using a separate temperature sensor to provide real-time temperature information for adjustment on the fly.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 2841

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

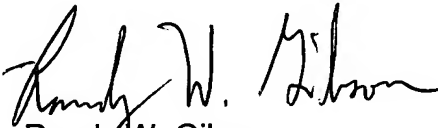
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2841

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Randy W. Gibson
Primary Examiner
Art Unit 2841